FOR MYSORE STATE

Home (195 4) Department

SERIES.

G.O. No. 314

Dated 20 x 54

Passed RR 12

[Despatch Abstract]

12-11-93
1375

Berore the Government or Madras State, Madras.

Appeal Petition No. /54.

C.Abdulla Timber Merchant and Government Coup-Q Petitioner.
Contractor,Kasaragod.S.Kanara Dt. ----------Q

Dated 23--8--54.

Petition for stay submitted on behalf or the petitioner who begs to state as follows:-

1. That the petitioner has this day filed an appeal - against the order of the Secretary Central Road Traffic Board Madras in his proceedings R.No. 29617/A1/54 dated 5-8-54 - confirming the order of the Secretary R.T.A.South Kanara - directing suspension of the PPU Permit of Lorry MDX 1477 of the petitioner ror 4 days and the petitioner verily believes he has good grounds to succeed in appeal.

2. The petitioner is a Government Contractor and will be put to great hardship and inconvenience if the suspension order is not stayed pending disposal of the appeal as the appeal may take some time for disposal and the sentence may itself be worked out by the time the appal is disposed off ir not stayed.

3. The interests of justice require therefore that pending disposal or the appeal the operation of the said suspension order should be stayed.

4. The petitioner therefore prays that the Honourable Government or Madras State may be pleased to direct suspension or the order passed by the Secretary Central Road Traffic Board Madras confirming the order of the Secretary R.T.A. S.Kanara,in his proceedings R.No.29617/A1/54 dated 5/8/54 rrom being enforeced against the potitioner pending disposal or the appeal and that stay ordrers may kindly be communicated to the Authority passing the order of suspension.

C. Abdulla

Potitioner.

C S Talapadi
Home no

Km
11-9-54

11954

GVO 4027/54
11/9/54

Before the Government or Madras State, Madras.

Appeal No. /54.

C.Abdulla, Timber Merchant, and Government Copp Contractor, Kasaragod.S.Kanara Dt. --- --- --- Appellant.

Dated 23--8--54.

Memarandum of Appeal Under Section 64 of the Motor Vehciles Act and Rule 148 of the M.V.Rules.

The Appellant abovenamed being highly aggrieved by the order datdd 5-8-54 of the Secretary, Central Road Traffic Board, Madras in his Proceedings R.No.29617/A1/54 (Item No.1/5-8-54) confirming the suspension of PPU Permit of Lorry MDX 1477 belonging to the appellant on the following among - other grounds:-

19 infra

1. The order of the Secretary Central Road Traffic Board Madras is clearly contrary to law, against the weight of evidence and the probablities of the case.

2. The Secretary Central Road Traffic Board Madras was wrong-in concluding that the vehicle had plied on the roads prior to payment of Tax when in fact the vehicle had not been caught plying on the roads before payment of Tax.

3. The Secretary Central Road Traffic Board Madras was wrong in acting on the mere entries alleged to have been made in the G.V.R.or the vehicle which are not substantial evidenc by themselves and not admissible without any corroborative evidence.

4. The Secretary Central Road Traffic Board Madras was wrong in holding that the conditions of the permit have been violated when in fact the Notifications under the M?V.T.Act give 7 days clear time to the permit holders to pay the Tax for the concerned quarter and this vehicle even according to the entries in the G.V.R. plied on 1-7-53,4-7-53,in one - Quarter and 1-10-53,3-10-53, and 4-10Ø-53 in the next quarter within the time of 7 days granted under the Notification for payment or Tax and hence hadnot violated any of the - conditions or the Permit.

5. In the absence or proof that any of the conditions of the Permit had in fact been violated the order of suspension is not warranted and not in accordance with law and opposed to the M.V.Rules.

6. The Secretary Central Road Traffic Board Madras hasnot correctly interpreted the import of Rule 160 C of the M.V=Rules and there has been a failure of justice to the Permit holder.

7. Even on the admitted facts there is no violation of the conditions or the Permit, and the order of suspension is clearly illegal.

8. In the absence of proof that the alleged plying was

with the knowledge of the owner Permit holder the liability cannot be shirted on to him and the driver if at all was to have been prosecuted in court.

9. The Secretary Central Road Traffic Board Madras went wrong in ignoring the provisions of the Indian Evidence Act Section 34 which make entries in documents like the G.V.R. inadmissible without proof and insufficient to charge any liability without further corroborative evidence and in the present case there was no further eviednce thawmere entry in the G=V=R.

10. That in law entries made by one person couldnot be taken into consideration against another and as such the G.V. R. couldnot have been used against the permit holder.

11. The order of the Secretary Central Road Traffic Board Madras cannot stand in law or on facts.

12. The Appellant therefore prays that the Honorable State Government may be pleased to call for the Records of the Proceedings of the Secretary Central Road Traffic Board Madras in R.No.29617/A1/54 dated 5-8-54 and the connected Records and after perusing the same with an opportunity to the appellant to be heard in support of the appeal be pleased to hold an enquiry and be pleased to quash the order of suspension and pending disposal of the appeal the order of suspension may be held in abeyance.

9 infra

- b. Achuda

I, the abovenamed appellant do hereby declare that all the facts stated above are true to the best of my knowledge and belief.

Kasaragod, ()
23-8-1954. ()

- b. Achuda

Provincial / Central.

ORIGINAL TREASURY

(For instructions see reverse.)

Chalan for payment of money into the Huzur Treasury / Sub-Treasury Kasaragod.

No. 605 Adv

By whom paid and name and address of the person on whose behalf money is paid.	On what account, with authority if any, and head of account.*	Amount. Rs.	NP.	Monthly consecutive number assigned to the credit in the day-book. No.	Month.
Sri.C. Abdulla, Timber Merchant, Kasaragod, by Sri. K. Kamalaksha Rao, Advocate, Kasaragod.	Fee for appeal before the State Government. against Forest Secretary ERT-	10	0		
Date 1-9- 19 54.	Total (in words and figures)	10	0		

Signature of Remitter. Rupees Ten only

Received Rupees Ten only

Huzur Treasury / Sub-Treasury Kasaragod

Fee

Signature of Treasurer. Signature of English Head Accountant.

Signature of Treasury Officer.

Sheriff English Head Accountant or Sarishtadar.

121193

* Head of account should be specified by the Departmental Officer or Treasury. (P.T.C.

T. & A. 8

ASSISTANT SECRETARY TO GOVT. 11 SEP 1954 GOVT. SECRETARIAT

RECEIVED 10 SEP 1954

1384

INSTRUCTIONS.

T. & A. 1 (b).

ಅನುಜ್ಞೆಗಳು.

" The receipt is not valid or binding on the Government unless—

I. In the case of payments in Huzur Treasuries it is signed (1) by the Huzur Treasurer and (2) by the English Head Accountant when the amount is under Rs. 500 and also (3) by the Treasury Deputy Collector when the amount is Rs. 500 or more.

II. And in the case of payment in Sub-Treasuries, (1) by the Shroff and (2) by the Taluk Head Accountant or Taluk Sarishtadar."

III. Receipts for cash or cheques paid for service stamps should be given in M.T.C. Form 5/A (T & A. 85).

"I. ಹಜೂರ್ ಖಜಾನೆಗಳಲ್ಲಿ ಮಾಡಿದ ಪಾವತಿಗಳ ಸಂಗತಿಯಲ್ಲಿ, (1) ಹಜೂರ್ ಟ್ರೆಜರರಿಂದ ಮತ್ತು (2) ಮೊಬಲಗು 500 ರೂಪಾಯಿಗಿಂತ ಕಡಿಮೆಯಿರುವಲ್ಲಿ ಇಂಗ್ಲೀಷ್ ಹೆಡ್ ಅಕೌಂಟೆಂಟರಿಂದ ಮತ್ತು (3) ಮೊಬಲಗು 500 ರೂಪಾಯಿ - ಯೂ - ಅದಕ್ಕೆ ಮೀರಿ ಇರುವಲ್ಲಿ ಟ್ರೆಜರಿ ಡಿಪ್ಯೂಟಿ ಕಲೆಕ್ಟರಿಂದ ಸಹ ದಸ್ಕತು ಮಾಡಲ್ಪಟ್ಟಿರದೆ ಇದ್ದರೆ ಸರಿಯಲ್ಲ.

II. ಸಬ್-ಟ್ರೆಜರಿಗಳಲ್ಲಿ ಮಾಡಿದ ಪಾವತಿಗಳ ಸಂಗತಿಯಲ್ಲಿ (1) ಶ್ರಾಫನಿಂದಲೂ, (2) ತಾಲೂಕು ಹೆಡ್ ಅಕೌಂಟೆಂಟ್ - ಯೂ - ತಾಲೂಕು ಶಿರಸ್ತೆದಾರರಿಂದಲೂ ದಸ್ಕತು ಮಾಡಲ್ಪಟ್ಟಿರದೆ ಇದ್ದರೆ,

ಈ ರಸೀದಿಯು ಸಾಧುವಾದುದಾಗಿ - ಯೂ - ಗವರ್ನ್‌ಮೆಂಟಿನವರನ್ನು ಬದ್ಧಪಡಿಸುವಂಥದಾಗಿ ಇರುವುದೂ

III. ಸರ್ವಿಸ್ ಸ್ಟ್ಯಾಂಪ್ಸುಗಳಿಗಾಗಿ ಪಾವತಿಮಾಡಿದ ನಗದು - ಯೂ - ಇಂಥ ರಸೀದಿಗಳನ್ನು M.T.C. ಫಾರ್ಮ್ 5-A. (T. - ಎ - A. 85) ರಲ್ಲಿ ಕೊಡತಕ್ಕದ್ದು.

Proceedings of the Secretary, Central Road Traffic Board, Madras.
Present: Sri C.Raghupathy Row Naidu, B.A.,
R.No.29617/A1/54 dated 5-8-54.

Item No.1/5-8-54.

Sub: Appeal-Goods Vehicles-Lorry MDX. 1477 - Permit suspended for 4 days by the Secretary, R.T.A. South Kanara - Orders passed.

Read: 1. Petition dated 26-6-54 from Sri C.Abdullah.
2. Letter No.14206/53-B dated 23-7-54 from the Regional Transport Officer, South Kanara.

This appeal coming on for hearing this day (5-8-54) upon perusing the records and upon hearing the arguments of Sri K.Kamalaksha Rao, Counsel for the appellant, the following order is passed:

ORDER:

The permit of lorry MDX. 1477 has been suspended for 4 days by the Secretary, Regional Transport Authority, South Kanara for plying the vehicle without payment of tax. The tax for the quarters ending 30-9-53 and 31-12-53 due to be paid by 7-7-53 and 7-10-53 was paid only on 9-7-53 and 12-10-53 respectively through the vehicle was used on the public road before the payment of tax.

In order to find out whether the vehicle was running before the payment of tax the Secretary, R.T.A. called for the G.V.R. for verification and found to his satisfaction that the vehicle ran on 1-7-53 and 4-7-53 during the quarter ending 30-9-53 and on 1-10-53, 3-10-53, 4-10-53 during the quarter ending 31-12-53 without the payment of tax. Based on these facts, the Secretary, R.T.A. suspended the permit as stated above. Having used the vehicle during the grace period it was absolutely essential for the appellant to have paid the tax within the due date. In the appeal the appellant contends that (i) the offence was not detected while the vehicle was plying on the road (ii) that the entries in the G.V.R. cannot be a substantial evidence to prove that the vehicle ran during the period and (iii) there was no proof to show that the vehicle ran with the knowledge of the appellant. The very same facts have been put forward before me by the Counsel for the appellant. In dealing with the three points raised by the Counsel, I have to say that there is no need for the vehicle to be actually checked in view of the fact that there is recorded evidence in the G.V.R. to prove that the vehicle ran on the public road on the dates mentioned prior to payment of tax. The only recorded evidence is the G.V.R. and though it was in the possession of the appellant it cannot be brushed aside. It is the duty of the appellant to ensure that the vehicles do not run when the tax is not paid. In view of this, there is no case for me to interfere against the lenient punishment awarded by the Secretary, R.T.A. The appeal is dismissed.

Note: The permit is valid upto: 20-12-56.

C.Raghupathy Row Naidu,
Secretary.

To Sri C.Abdulla, C/O Sri K.Kamalaksha Rao, B.A., B.L., Advocate, Kasargod. (RPAD)

Copy to the Regional Transport Officer, South Kanara with records (by Regd.Post.) the receipt of which should be acknowledged by return of post.

/by order/

ks/ 9.8.

Superintendent.
11-8-54

Home (Tr.II) Deptt.

Memo.No.121193 Tr.II/54-1 d/ 15/9/54

M.Vs. - Goods vehicles - R.T.A., S.Kanara Lorry MDX 1477 - Suspension of permit - Appeal petition to Govt.

Ref: Appeal petition d/2-3-54 from Sri C. Abdulla.

The petr. is informed that as there is no provision for appeal but only a provision for revision to Govt. under Sec.64-A of the M.V. Act, against the order of the Secy., C.R.T.Bd. in his proceedings R.No.29617/A1/54 dt. 5-8-54, his appeal petition has to be treated as a revision petition.

He is in this connection referred to Rule 148-B of the M.M.V. Rules, and he is informed that ~~the~~ the fee payable in respect of an application for revision is ~~revision is Rs.50/- and that as he has~~ Rs.50/-. Since he has however sent a chalan for only Rs.10/-, he is directed to produce not later than 25-9-54 another chalan for the balance Rs.40/- also and three more copies of his ~~appeal~~ petition, failing which his ~~appeal~~ petition will have to be rejected as not in compliance with the Rules.

14.9.54 14/9/54

15/9/54

To

Sri C. Abdulla, Timber Merchant,
Kasaragod, S. Kanara district.

R.D.26-9-54.

by Regd Post A.D.

Action on 12 from

12453/Tariff I dn 1954

On Postal Service

To Sub.

Sender's name and address: Chief Secretariat (C.D.B.), Fort St. George, Madras-9.

17SEP54

9-9-54

8 45 पूर्वा

Name-stamp of office of posting

SAINT GEORGE

R. P. 54. Acknowledgment.

12

(To be returned to office of posting for delivery to sender).

RECEIVED a registered ..... No. 1 S.....

addressed to (name) Sri C. Abdulla Teacher, Marakal

Kasargod S. Kanara Dist.

† Insured for Rs. .....

* Weighing (in words) ..... tolas rati

Signature of addressee ..... A. Abdulla

Date of delivery ..... 17/5/.....19

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* Write here, "letter," "post-card," "packet," or "parcel," as the case may be preceded by the word "insured" if the article is insured.

† To be filled up only in the case of insured articles, and to be scored out in the case of other articles.

LC&S—29—(MFP No. CP 243 P&T—8-8-52)—(PC/245/52 CMP—18-6-52)—3,05,000 Bks.

C. No 121193 / T II / 54

Home (T & II) Dept

G.O. R.No 3114 Dated 20/10/54

M.Vs. Goods Vehicles - R.T.A. South Kanara - Lorry MDX-1477 - Suspension of permit - Appeal petition to Govt. - Rejected summarily.

Read:

From Sri C. Abdulla, appeal petition dt 23-8-54

Order

The petition cited is rejected as not in compliance with rule 48-B of the M.V. Rules.

RBS 9.10.54 — Ev 15/10/54

By Order,

15/Oct/54

To

Sri C. Abdulla,
Timber Merchant,
Kasaragod, South Kanara Dt.
(under certificate of posting)

CENTRAL DESPATCH SECTION
Van. / Post.
Despatched by Regd. Post. / Messenger.
Date 20/10/1954 Despatcher's Initials

Note:

Please see the appeal petition on pp 1-5 cy from Sri C Abdulla against the order of the CRTBd on p 9 cy. There is no provision for appeal but only a provision for revision to Govt under Section 64-A of M.V. Act against the order

p 50 of file 152

Secy. CRTBd. The petitioner was informed that ~~was informed that~~ his ~~appeal~~ petition had to be treated as a revision petition. The petitioner was also referred to Rule 148 B of the M.V. Rules Pt 165/56 02 Blk 52 and he was informed that the fee payable in respect of an application for revision is Rs 50/- and that as he had sent a chalan for Rs 10/- only he was asked to produce a chalan for the balance of Rs 40/- and 3 more copies of his petition. The petitioner has not produced the chalan for Rs 40/- and the additional copies called for. For orders whether the petition may be rejected as not in compliance with the Rules. May be circulated to M (REST)

not later than 25-9-54

RSL 9.10.54 — SW 15/X/54

Due intimation has been sent to the Petitioner by registered post, regarding the requirements of Rule 148-B, which he has acknowledged. He has not chosen to comply with the legal requirements ~~up~~ up to date. Hence this Petition may be rejected and the draft may issue.

J. Sutherland
15 Oct 52

M (REST) B Ganeswaran 19.10.54

Issued as G.O.R. 3114 Home dt 20.10.54

DEPUTY SECRETARY TO GOVERNMENT 20 OCT 1954

SECRETARY TO GOVERNMENT 20 OCT 1954 HOME DEPARTMENT